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May 22, 1998

Ray T. Williamson
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Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Docket #: RE-00000C-98-0165

Arizona Corporation Commission
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Dear Mr. Williamson:

In response to Staff's Statement of Position dated May 19, 1998, the following comments track the headings in your letter. In addition, Tom Delaney has forwarded comments to you regarding areas within his expertise and they will not be repeated here. Enron appreciates the efforts being made by Staff. However, it needs to be realized that we are responding to general concepts. The viability of the approach is very dependent upon the details. Enron is very concerned about the approach the utilities will take with respect to any issue left to their discretion.

A. Stranded Cost

Stranded costs are, by definition, costs that are caused by competition. To the extent the Rules, or the procedures implementing the Rules, do not provide for fully effective competition because barriers to entry for new entrants are not minimized or the monopoly advantages of the incumbent utility are not corrected for, then a reasonable opportunity for 100% recovery of stranded costs is not

appropriate. The link between these two concepts needs to be made clear in the Rule.

Enron agrees that it is important to have a deadline for the completion of the sale process; the Staff is recommending a date of January 1, 2000. To achieve that goal, a deadline for the filing which starts the approval process needs to be included. The sale process itself (from sending the bid package to prospective purchasers through the bidding process and final selection of the purchaser) can easily take 6 months. Therefore, ACC approval of the bid process must be completed by June 1999. The ACC approval needs to be done in the context of resolving such issues as the unbundling of rates, the parameters of standard offer and whether the transfer of any assets must be restricted. As a result, utilities should be directed to make the appropriate filings in the near future and, in any event, no later than August 1 or so.

Staff proposes that open access for certain customers commence on January 1, 1999. However, we do not know how many customers will be able to take advantage of that opportunity. For example, the utilities may argue that customers with special contracts are precluded from making any choices until the contract expires. As a result, it would not be appropriate for recovery of stranded costs to begin on that date.

As for the option to transfer generating assets to an affiliate, the ACC must first address the issue of market power. It very well could be that such a transfer raises impermissible market power concerns. Further, it will be imperative that effective standards of conduct be implemented; it is obvious that one of the prime

reasons for a utility to choose this option is the ability to unfairly leverage its monopoly advantage.This is discussed in more detail later. Finally, it is imperative that any calculation of stranded cost must be a market test for all the reasons Enron stated in the stranded cost proceeding

The option regarding financial integrity needs further explanation regarding its limited availability. While the goal may be laudable, it should be clear that its availability is very limited.

One of the goals not mentioned by Staff is that the recovery of stranded costs will be competitively neutral. In addition, the Rule should explicitly state that the calculation of, and recovery method for, stranded cost shall not impede effective competition. For example, the recovery mechanism should not operate in such a way that effective competition will not occur until after the recovery of stranded costs.

B. Affiliate Rules

As the Staff indicates, full divestiture is preferable to transferring assets to an affiliate. The latter is not being considered as an option because it has inherent value as we move toward competition and should be recognized as such. Therefore, it is imperative that the ACC require complete separation of functions into separate affiliates and also adopt a strict code of conduct. The list of goals in this section should be expanded to include: to require functional separation and to adopt strict standards of conduct in order to foster competition.

The complete separation should require that regulated functions be separated from functions that are competitive now or in the near future. This

would include energy as well as metering, billing, collection and any related services.

Any interaction between affiliates must be governed by the Golden Rule and the standards of conduct need to be prescriptive. Their purpose is to make clear what is and is not permissible in advance to a wide variety of persons: utility employees, customers, competitors and Commission Staff.

Enron believes it is imperative for the Commission to adopt standards very similar to what has been adopted in California. Along those lines, it is not appropriate to consider any exceptions regarding cost sharing or joint marketing. In addition, the Rule should prohibit the affiliate from using the name, logo, service mark, trademark or trade name of the utility.

Enron assumes various parties will argue that savings will be lost if the utility is not able to share costs with its affiliates. This argument is akin to the argument that a rate decrease under regulation is better than the benefits to be realized under competition. These arguments, at best, are very short-term in outlook. In the long run, customers are the losers.

It also is imperative that the Rule specifically address enforcement provisions and be clear with respect to the penalties. The goal should be to discourage penalties in the first place and provide a disincentive against "pushing the envelope".

C. Implementation of Competition

1. Timing and Customer Selection

The purpose of the threshold is to make competition available to a significant group of customers. However, we do not know if the 1 MW threshold is appropriate because we do not know how many customers will have the opportunity to take advantage. If a significant number of these customers are precluded at present time, then the threshold needs to be lowered.

The concept of aggregation should be broadly construed. The aggregation of loads should not be limited in any way to restrictions such as common entity or ownership requirements. Also, the ACC should define threshold level loads as the individual customer's peak hourly energy usage in the most recent 12 month period. For those customers at 20 kw and higher that do not have metering equipment capable of capturing peak load, a peak monthly kwh equivalent (e.g.,6,000 kwh) should be allowed in determining eligibility.

2. Targeted Rate Decreases

The ACC should make it clear that utilities are expected to address any rate decreases through cost cutting measures or similar steps. The amount associated with the revenue decrease should not become a component of stranded cost calculations. Otherwise, customers will not receive the benefit of a rate decrease; all they will receive is a rate deferral.

Assuming the rate decrease is to become effective on January 1, 1999, the ACC should specify when the utilities will make their filing and provide enough time for input from interested persons.

3. Residential Phase-In Program

Whatever percent is enunciated, the ACC needs to make it clear that this is the target number of customers to be signed into the program. It should not be the % that receives a mailing indicating they can pursue this option if interested. The utility should not have a role in deciding who these customers are.

As for the percent, it is far too low. The initial target should at least be in the neighborhood of 5% and the goal should be to reach 10% or higher within 12 months. The program needs to be of sufficient scale to accomplish two goals: to attract enough suppliers so that the phase-in is meaningful; to sufficiently test the system and be comfortable that the move to 100% on January 1, 2001 can be done. In this regard, any suggestion by the utilities that 1/2 of 1% means an offer only ought to be indicative of how little movement one can expect from the utilities when matters are left to their discretion.

D. Metering and Billing

1. Metering

The metering and billing credit needs to be resolved soon. Unless competitors know the amount of the credit, it will not be possible to make appropriate decisions.

In the situation where a customer has chosen an ESP, whether metering is provided by the utility or the ESP is to be decided by the ESP and not by the utility.

The format of the Universal Node Identifier should be developed for statewide usage through ACC proceedings. Also, a date for compliance with this

provision needs to be established. Finally, a significant amount of clarification is needed regarding the EDI format.

2. Billing

With respect to connects and disconnects, it needs to be clarified that the provision of physical connection and disconnection, when accomplished through the legitimate installation or removal of an electric meter, is defined as a competitive function and is subject to the ACC's rules and regulations regarding that type of transaction.

With respect to delinquent bills, it is only the utility portion that is subject to the affected utility's termination policies. If the ESP is no longer going to serve a customer, the customer will get service from another ESP or get standard offer service; the action taken by the first ESP (no longer providing energy service) should not be subject to the utility's procedures.

E. Local Distribution Company Services

1. Standard Offer

Customers should be allowed to change suppliers at any time. If done other than at the end of a cycle, there may be an appropriate charge but there should be no other constraints.

Leaving aside who provides standard offer, it should not be priced in a way that is anticompetitive. If the price is kept too low, then the ACC will be assuring that competition does not occur. An example of how it can be done effectively is the Pennsylvania situation where the standard offer allows for meaningful competition.

If the question is who provides the supply for the standard offer customers,this should be the subject of competitive bid. There is no reason to delay that approach until after the transition period.

As for standard offer itself, the ACC should not restrict its options to the one just mentioned. The ACC should evaluate different appraches to standard offer and allow competitive bidding for the package; a time limit of one or two years could be put on the package so the ACC is not isolating itself from changes in the marketplace. For example, the ACC may set forth the parameters for standard offer and leave flexibility regarding the pricing of various components. Then, entities could bid on that package and the most competitive bid would be chosen. Another approach would be to divide up the service territory and have a standard offer for each of the areas. This would allow the ingenuity of the marketplace into the process and result in a better deal for customers. Again, we should not assume that the standard offer is today's bundled service.

2. System Benefits

Enron supports the concept of a system benefits charge. The Rule needs to clarify that this will be a distribution charge.

F. Transmission and Dispatch

As previously indicated, Tom Delaney has already submitted comments regarding this section.

Again, we appreciate the work you are doing and hope the above comments are helpful. If you have any questions or need further clarification, do not hesitate to call me.

Very truly yours,

James K. Tarpey, Director